

RECORDATION NO. 22369-A FILED

APR 01 '03

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SURFACE TRANSPORTATION BOARD

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

April 1, 2003

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated March 31, 2003, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Master Locomotive Lease Agreement which was previously filed with the Board under Recordation Number 22369.

The names and addresses of the parties to the enclosed document are:

Seller/Assignor: Newcourt Capital USA Inc.
70 West Madison Street
Suite 5360
Chicago, IL 60602-4208

Buyer/Assignee: Lombard Master Owner Trust II
c/o Wilmington Trust Company
Rodney Square North
1100 North Market Street
Wilmington, Delaware 19890

A description of the railroad equipment covered by the enclosed document is:

40 SD 40-2 locomotives BNSF 7300 – BNSF 7339

Mr. Vernon A. Williams
April 1, 2003
Page Two

A short summary of the document to appear in the index follows:

Assignment and Assumption Agreement

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alvord", with a stylized flourish extending to the right.

Robert W. Alvord

RWA/anr
Enclosures

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ASSIGNMENT AND ASSUMPTION AGREEMENT

SURFACE TRANSPORTATION BOARD

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of March 31, 2003 (this "Agreement"), is between Newcourt Capital USA Inc., a Delaware corporation (the "Seller") and Lombard Master Owner Trust II, a Delaware statutory trust (the "Buyer").

RECITALS

WHEREAS, the Buyer and the Seller have entered into the Agreement, dated as of March 31, 2003 (the "Purchase Agreement") of the Ownership Interest by the Buyer from the Seller, subject to the terms set forth therein; and

STB
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WHEREAS, the Purchase Agreement contemplates the execution of the Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

AGREEMENT

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** Effective as to each unit of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such unit and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Existing Obligations, under each of the following as they relate to each unit:

(a) the Lease;

(b) Memorandum of Master Locomotive Lease Agreement and Schedule No. 1 to Master Locomotive Lease Agreement, dated as of July 27, 1999, filed with the Surface Transportation Board on August 30, 1999 at 12:40 p.m. and assigned Recordation No. 22369;

(c) Locomotive Warranty Agreement, made as of July 27, 1999, among ALSTOM Canada Inc., Seller and Lessee; and

(d) Guarantee Agreement, dated as of July 27, 1999, from ALSTOM France SA in favor of Seller (collectively, the "Assigned Operative Agreements").

Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any right to indemnification for tax or other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date, as specified in the Purchase Agreement.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.**

The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Assigned Operative Agreements. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Seller under the Assigned Operative Agreements, except to the extent constituting Existing Obligations.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: the bill of sale in the form of Exhibit I hereto.

Closing Date: the date of the Bill of Sale.

Equipment: the units of equipment listed on Schedule 1 hereto.

Existing Obligations: any and all liabilities and obligations of Seller under the Ownership Interest, including the Assigned Operative Agreements, or otherwise relating to the Equipment in each such case, to the extent arising or occurring prior to the Closing Date (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by Seller prior to the Closing Date.

Lease: Schedule No. 1 ("Schedule No. 1"), dated as of July 27, 1999 to that certain Master Locomotive Master Lease Agreement ("Master Lease"), dated as of July 27, 1999, between Seller and lessee, as Schedule No. 1 incorporates the terms of the Master Lease

Lessee: The Burlington Northern and Santa Fe Railway Company, a Delaware corporation.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Assigned Operative Agreements, except the Existing Obligations.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner proscribed by Section 9.5 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

11. **Recordation.** The Seller and the Buyer agree that the Buyer may record this Agreement with either or both the Surface Transportation Board or the Office of the Registrar General of Canada to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease.

12. **Liability of Trustee Limited.** Except as otherwise specifically provided in the Operative Agreements, all and each of the representations, warranties, undertakings and agreements made in this Agreement on the part of the Buyer are made and intended not as personal representations, warranties, undertakings and agreements by or for the purpose or with the intention of binding Wilmington Trust Company, a Delaware banking corporation (the "Trust Company"), personally, but are made and intended for the purpose of binding only the Buyer, with all recourse being limited to the assets of the Buyer. This Agreement is executed and delivered by the Trust Company, not in its individual capacity but solely as trustee under that certain Trust Agreement dated as of March 28, 2003 (the "Trust Agreement"), between Lombard US Equipment Finance Corporation and the Trust Company, in the exercise of the powers expressly conferred upon the Trust Company under the Trust Agreement. No personal liability or responsibility is assumed by the Trust Company hereunder and no such liability or responsibility shall at any time be imposed on the Trust Company on account of any representation, warranty, undertaking or agreement hereunder of the Buyer either express or implied, all such personal liability, if any, being expressly waived by the Seller.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the date first above written.

NEWCOURT CAPITAL USA INC., Assignor

By: Jean B. Stein

Name: Jean B. Stein

Title: Senior Vice President

**LOMBARD MASTER OWNER TRUST II,
Assignee**

By: Wilmington Trust Company, not in its
individual capacity, but solely as trustee under the
Trust Agreement

By: _____

Name:

Title:


IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the date first above written.

NEWCOURT CAPITAL USA INC., Assignor

By: _____
Name: Jean B. Stein
Title: Senior Vice President

**LOMBARD MASTER OWNER TRUST II,
Assignee**

By: Wilmington Trust Company, not in its
individual capacity, but solely as trustee under the
Trust Agreement

By:  _____
Name: Kathleen A. Pedellini
Title: Financial Services Officer

State of New York)
):
County of New York)

On this, the 31 day March, 2003, before me, a Notary Public in and for said County and State, personally appeared Jean B. Stein, a Senior Vice President of Newcourt Capital USA Inc., who acknowledged herself to be a duly authorized officer of Newcourt Capital USA Inc., and that, as such officer, being authorized to do so, she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Barbara Garner
Notary Public
My Commission Expires: Sept. 3, 2006
BARBARA GARNER
Notary Public, State of New York
No. 01GA5085133
Qualified in Nassau County
Certificate filed in New York County
Commission Expires Sept. 3, 2006

State of Delaware)
County of New Castle)

On this, the 31st day of March, 2003, before me, a Notary Public in and for said County and State, personally appeared Kathleen A. Pedersen, a ~~Financial Services Officer~~ of Wilmington Trust Company, who acknowledged himself to be a duly authorized officer of Wilmington Trust Company, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: 
Notary Public

My Commission Expires: _____

JOANNA A. ROZELL
NOTARY PUBLIC-DELAWARE
My Commission Expires July 24, 2004

**EXHIBIT I TO ASSIGNMENT AND ASSUMPTION AGREEMENT
FORM OF BILL OF SALE**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Newcourt Capital USA Inc. ("Seller"), does hereby sell, transfer and assign to Lombard Master Owner Trust II ("Buyer") all of Seller's rights, title and interest in and to the equipment described in Schedule 1 hereto (the "Equipment"), subject to the terms and conditions of the Purchase Agreement, dated as of March __, 2003 (the "Purchase Agreement"), between Seller and Buyer, and the Assignment and Assumption Agreement, dated March __, 2003 (the "Assignment"), between Seller and Buyer.

Seller represents and warrants to Buyer and its successors and assigns that at the time of delivery of the Equipment, Seller had legal title thereto and good and lawful right to sell the Equipment, and the Equipment was free and clear of all Liens (as defined in the Purchase Agreement) created by or arising under or through the Seller, other than as described in Section 3.3 of the Purchase Agreement.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN HEREIN OR IN THE PURCHASE AGREEMENT, AS BETWEEN THE SELLER AND THE BUYER, THE BUYER SHALL UNCONDITIONALLY ACCEPT THE EQUIPMENT "AS-IS, WHERE IS." THE REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN OR IN THE PURCHASE AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES OF THE SELLER OF ANY KIND WHATSOEVER, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED, AND THE SELLER HAS NOT MADE AND SHALL NOT BE DEEMED TO HAVE MADE, AND THE BUYER HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY (EXCEPT THE REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN OR IN THE PURCHASE AGREEMENT) AS TO THE TITLE, EXISTENCE, CONDITION, DESIGN, VALUE, OPERATION, MARKETABILITY, QUALITY OF MATERIAL OR WORKMANSHIP, MAINTENANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY UNIT, PART OR PORTION OF THE EQUIPMENT, THE FREEDOM OF ANY OF THE EQUIPMENT (OR ANY PART THEREOF) FROM ANY LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), THE COMPLIANCE OF ANY OF THE EQUIPMENT (OR ANY PART THEREOF) WITH ANY APPLICABLE LAWS OR REGULATIONS OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED (EXCEPT THE REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN OR IN THE PURCHASE AGREEMENT), WITH RESPECT TO ANY PART OR PORTION OF THE EQUIPMENT, IT BEING UNDERSTOOD THAT ALL SUCH DISCLAIMED RISKS, AS BETWEEN THE SELLER AND THE BUYER, ARE TO BE BORNE BY THE BUYER.

Newcourt Capital USA Inc.

By: _____
Name: _____
Title: _____
Date: March __, 2003

Schedule 1
to
Assignment and Assumption Agreement
and Bill of Sale

(units of Equipment)

<u>#</u> <u>Locomotives</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty</u> <u>Marks</u>
40	3/1967 22/1968 2/1969 5/1970 8/1971 and each remanufactured in 1999.	SD 40-2, 6 axel, 3000 HP locomotives	BNSF 7300 through 7339, inclusive	None.

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: _____

4/1/02



Robert W. Alvord